IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1566 of 1985

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

==========

ABBASBHAI NURBHAI UMTIYA - Appellant(s)
Versus
MOHMEDBHAI ABRAMBHAI MUMAN & 3 - Defendant(s)

==========

Appearance :
MR KH BAXI for Appellant(s) : 1,
MR MB THAKORE for Defendant(s) : 1 - 2.
MR RAJNI H MEHTA for Defendant(s) : 3,
None for Defendant(s) : 4,

==========

CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 08/08/2006

ORAL JUDGMENT

1.0 By way of this appeal the appellant has challenged the judgment and award of the Motor Accident Claims Tribunal(Main), Palanpur passed in M.A.C.P. No.254 of 1982 dated 14.12.1984.

2.0 The brief facts of the case are that on 08.06.1982, when the appellant was proceeding on his motor-cycle from Danta towards Palanpur, the said motor-cycle was dashed by a jeep-car driven

by present opponent No.1 and owned by present opponent No.2. On account of the said accident, the appellant received serious bodily injuries, and therefore, he filed a petition claiming an amount of Rs.50,000/- by way of compensation.

2.1 In the said petition, after hearing the parties, the Tribunal passed the judgment and award which is under challenge in this appeal.

3.0 Heard. It was the case of the appellant before the Tribunal that on the day of the accident when he was proceeding on motor-cycle towards Palanpur and reached near three cross-roads, the said motor-cycle was dashed by a jeep-car driven by present opponent No.1. The story put forward by the appellant is supported by evidence of a witness-Pravinchandra who was traveling in the said jeep-car. According to that witness, on the day of the accident when the jeep-car reached near the turning, he saw the appellant from a distance of 100' feet and when the opponent No.1 took a full turn the appellant

was at the distance of 10' to 15' feet. He has further stated that at that time speed of the jeep-car was about 60 k.m. per hour and since there was heap of stones on the side of the appellant, the appellant could not move further and the accident in question took place. He has further stated that the breadth of the road at the place of incident is about 30' feet. Therefore, it appears that while taking turn, opponent No.1 has failed to take any precaution. It may be noted that the opponent No.1 did not appear before the Tribunal and since copies of the F.I.R. and 'Panchnama' are not admitted they were not referred by the Tribunal. Therefore, on the basis of the evidence of witness-Pravinchandra the Tribunal is justified in holding that the accident in question took place on account of the sole negligence on the part of the opponent No.1. Therefore, the appellant is entitled for compensation.

3.1 While considering the aspect of compensation, the Tribunal has looked into the

medical and other evidence available on record. Looking to the nature of injuries sustained by the appellant, the period of hospitalization and considering the fact that he was earning about Rs.500/- per month, the compensation awarded by the Tribunal, in my opinion, is just and reasonable. No case has been made out by the appellant for enhancement of the amount of compensation. I am, therefore, in complete agreement with the reasonings given and the findings arrived at by the Tribunal and do not find any reason to interfere in this appeal.

4.0 In the result, the appeal is dismissed. No order as to costs.

(K. S. Jhaveri, J.)

umesh